

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: AMERICAN MEDICAL SYSTEMS, INC.,
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL NO. 2325

THIS DOCUMENT RELATES TO:

Berry v. American Medical Systems, Inc., et al.

Civil Action No. 2:13-cv-33495

ORDER

(Dismissing Defendant American Medical Systems, Inc. with Prejudice
and Transferring Case to MDL 2327)

Pending is a Joint Motion to Dismiss Defendant American Medical Systems, Inc. with Prejudice filed by the plaintiffs and American Medical Systems, Inc. (“AMS”) [ECF No. 14]. Also pending is plaintiffs’ Motion to Transfer MDLs. [ECF No. 14]. The Motions seek an order (1) granting dismissal of AMS as a defendant in this action with prejudice because all claims against AMS have been compromised and settled, including all claims, counterclaims, cross-claims and third party claims; and (2) transferring the case to the appropriate remaining MDL.

After careful consideration, it is **ORDERED** that

- (1) the Joint Motion to Dismiss AMS with Prejudice and the plaintiffs’ Motion to Transfer MDLs are **GRANTED**;
- (2) Defendant AMS is **DISMISSED WITH PREJUDICE** as a defendant in this action;
- (3) this case is **TRANSFERRED** to MDL 2327;
- (4) pursuant to AMS MDL Pretrial Order No 249 as amended by PTO No 255 (Amended Docket Control Order – American Medical Systems, Inc. Wave 3 Cases), which states the

following,

Transfer of any Wave 3 case to any other MDL, whether by ruling upon a motion from plaintiff or defendants or *sua sponte* by the court, does not relieve the plaintiff or any remaining defendant(s) from the deadlines of a Docket Control Order. Any cases transferred into C. R. Bard, Inc. (“Bard”), Boston Scientific Corporation (“BSC”) or Ethicon, Inc. (“Ethicon”) MDLs will immediately be subject to the Docket Control Order entered in that MDL on January 30, 2018, and any Amended Docket Control Orders.


This case, which resided in AMS Wave 3, is now subject to PTO Nos. 280 and 303 entered in MDL 2327; and

- (5) to the extent an Amended Short Form Complaint has not been filed, the court **DIRECTS** plaintiffs’ counsel to file the appropriate Amended Short Form Complaint within two weeks of the date of this Order.

The court **DIRECTS** the Clerk as follows:

- (1) disassociate this civil action as a member case in MDL 2325 and re-associate it with MDL 2327;
- (2) file MDL 2327, PTO Nos 280 and 303 in the individual case;
- (3) change the 2325 Wave 3 flag to a MDL 2327 Wave 8 flag; and
- (4) send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: October 22, 2018


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE